

REMARKS

Independent claims 1 and 12 have been amended to include the limitation that the covering is secured to the pipe. Applicants agree with the Examiner's statement that "Fuller et. al. does not disclose placing the device on a hose." (O.A. p. 5) With this amendment to claims 1 and 12, applicants believe that all rejections are traversed except for the rejection relating to Fuller et. al in view of Brach, Jr. et. al. With regard to this rejection, it is an improper rejection because there is no teaching or suggestion in the references to combine the references. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577 (Fed. Cir. 1984).

Fuller relates to a protector for protecting barriers against damage due to incidental contact therewith. This barrier protector may be decorated with advertising and may be present at gas pump islands.

Brach relates to an apparatus for providing advertising on a gas pump hose. With this device, the hose connection collar is connected to the hose and the frame is located off the hose.

There is no teaching or suggestion to combine references located anywhere within either patent. The Examiner has simply used hindsight reconstruction using the Applicants' specification and two references, one of which is nonanalogous prior art (see below), to fabricate a rejection to the claims.

Also, Fuller is nonanalogous prior art. For the teachings of a reference to be prior art under 35 U.S.C. § 103, there must be some basis for concluding that the reference would have been considered by one skilled in the particular art working on the pertinent problem to which the invention pertains. In re Home, 203 U.S.P.Q. 969, 971 (C.C.P.A. 1979). Nonanalogous art cannot properly be considered pertinent prior art under 35

Amendments to the Drawings

Replacement drawing sheet 2 showing the changes suggested by the Examiner is attached. VELCRO 27, glossy covering 28, and advertising display 29 have been added. Also, the small circular drawing previously labeled "2A" is now labeled 2B. No new matter has been added.

U.S.C. § 103. In re Pagliaro, 210 U.S.P.Q. 888, 892 (C.C.P.A. 1981). In the present situation, the problem to which the invention pertains relates to providing advertising on hoses, e.g., gas station hoses. One looking at the problem of providing advertising on hoses would not look to the prior art of barrier protector devices for a solution to the problem.

Thus, the claims as currently amended are not obvious over the cited references and the rejection should be removed and the claims allowed.

Respectfully submitted,



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